

December 14, 2021

Worcester Conservation Commission
c/o Department of Planning and Regulatory Services
455 Main Street, Rm.404
Worcester, MA 01608

Re: Project Address: 35 Modoc Street
File # Mass DEP File #349-1210
Applicant: St. Anthony Realty, LLC
243 West Main Street, Hopkinton, MA 01748

Dear Commissioners,

I am writing to request to Amend the Order of Conditions issued October 1, 2018, to revise subdivision lot configurations and site grading to accommodate building footprint increases for seven buildings, shown on the approved plan, from 30 ft. x 50 ft. to 46 ft. x 52 ft. See letter from Joseph Graham PE dated December 7, 2021 for additional project detail.

Sincerely,

A handwritten signature in dark ink, appearing to read 'AB', with a long horizontal flourish extending to the right.

Anthony Bianco, Manager
St. Anthony Realty, LLC

Joseph Graham, PE
13 Snow Drive
Westford, MA 01886
978.501.2695

Date: Tuesday, December 07, 2021

RE: St. Anthony Circle Subdivision

Attn: Ms. Smith
City of Worcester
Planning and Regulatory Services
City Hall
455 Main Street
Worcester, Massachusetts 01608

Dear Ms. Smith:

Please accept this letter in reference to the amended plans and revisions to the previously approved subdivision and following up on the October 1st letter and documentation. The developer has chosen to change the footprint of seven(7) buildings from a 30ft x 50ft rectangular structure to 46ft x 52ft. In response to this change, revisions have been made to the stormwater report. As part of these revisions, additional subsurface investigations were done at each of the proposed underground infiltration units. Underground roof infiltration units are proposed to infiltrate runoff from each building onto its own lot. Due to the changes proposed, the revisions in the stormwater report account for a square footage increase of approximately 900ft² per building. This increase in building area causes several affects. The first, an increase in overall impervious area of the project of approximately 6,300 ft². This increased impervious area is routed directly to each respective underground infiltration gallery. The roof area will be connected to a subsurface infiltration system to provide additional groundwater recharge.

The originally submitted stormwater report was based on previously completed design tests pits. These test pits indicated that an infiltration rate 2.41 in/hr in accordance with Class A drainage soil. Additional test pits were completed on October 19, 2021 and sieve analysis performed by Yankee Testing. This additional subsurface investigation work and subsequent lab analysis confirm the previous assumptions of well drained material. No change was made to the drainage class in the calculations for each underground infiltration unit.

Also due to the change in building layout, the number of underground roof infiltration systems has increased. Originally each single family building would have one infiltration system. Now because buildings were changed to single family attached structures, an underground infiltration unit is being proposed on each side of the structure. The revised plans illustrate roof infiltration systems that are the same size as the originally approved plans. Each of these systems handles a similar water volume due to the minor change in building footprint, increasing the area of recharge.

If you have additional questions regarding the submitted plans and comments, please do not hesitate to contact me.

Sincerely,



Joseph Graham, PE.
joe@ejgraham.com
(978)501-2695

Notification of Abutters Under the City of Worcester Wetlands Protection Ordinance

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, you are hereby notified of the following:

- A. The name of the applicant is St. Anthony Realty, LLC.
- B. The applicant has filed a Request to Amend the Order of Conditions issued by the Worcester Conservation Commission on October 1, 2018 (Mass DEP File #349-1210) with the Conservation Commission for the City of Worcester seeking approval to modify a number of building footprints and site grading to accommodate said changes within an area subject to the City of Worcester Wetlands Ordinance.
- C. The address where the planned activity will take place is 34, 35, 36, 37, 38, 39,40, 41, 42, 43, 44, 45, 46, 47, 49, 51 & 52 Modoc Street Worcester, MA.
- D. The Application may be viewed 8:30 am- 2:00 pm at the Division of Planning & Regulatory Services, City Hall, 455 Main Street, Room 404, Worcester, MA. Contact phone number (508)799-1400 x31440.
- E. Notice of the public hearing, including its date, time and place, will be published at least 7 calendar days prior to the hearing in the Worcester Telegram & Gazette.
- F. Agenda for the public hearing, including its date, time and place, will be posted on the City website (<http://www.worcesterma.gov/city-clerk/agendas-minutes/boards-commissions>) not less than 48 hours prior to the hearing.

Edward M. Augustus, Jr.
CITY MANAGER



CITY OF WORCESTER

ADMINISTRATION & FINANCE

Timothy J. McGourthy
CHIEF FINANCIAL OFFICER

Samuel E. Konieczny
CITY ASSESSOR

Certified Abutters List

A list of 'parties in interest' shall be attached to the application form and shall include the names and addresses. All such names and addresses shall be obtained from the most recent applicable tax list maintained by the City's Assessing Department. The Assessing Department certifies the list of names and addresses.

Total Count: 33

Assessor's M-B-L/ Parcel Address: 38-017-1A-17/34 Modoc St
38-017-1A-01/35 Modoc St
38-017-1A-16/36 Modoc St
38-017-1A-02/37 Modoc St
38-017-1A-15/38 Modoc St
38-017-1A-03/39 Modoc St
38-017-1A-14/40 Modoc St
38-017-1A-04/41 Modoc St
38-017-1A-13/42 Modoc St
38-017-1A-05/43 Modoc St
38-017-1A-12/44 Modoc St
38-017-1A-06/45 Modoc St
38-017-1A-11/46 Modoc St
38-017-1A-07/47 Modoc St
38-017-1A-08/49 Modoc St
38-017-1A-09/51 Modoc St
38-017-1A-10/52 Modoc St

Owner: St. Anthony Realty LLC
Owner Mailing: 243 West Main St
Hopkinton, MA 01748

Petitioner (if other than owner): Donald J O'Neil
Petitioner Mailing Address: 688 Pleasant St
Worcester, MA 01602
Petitioner Phone: 508-755-5655

Planning: Zoning: Liquor License: ConComm: X
Historical: Cannabis: Other:

17-039-00023	MCSWEENEY WILLIAM T + LINDA	0033 MODOC ST	WORCESTER MA 01604
17-043-00003	ARENA ANTONIO + PATRICIA A	0032 MODOC ST	WORCESTER MA 01604
17-043-0003A	REED GEORGE W	0030 MODOC ST	WORCESTER MA 01604
38-015-11-15	WORLEY LUCILLE E	0045 NANITA ST	WORCESTER MA 01604
38-015-16-20	DANDREA NICHOLAS + MARY R	55 NANITA ST	WORCESTER MA 01604
38-017-00001	SHABO REEMA	0025 BIRD ST	WORCESTER MA 01604
38-017-00002	RIGGIERI WILLIAM J	0023 HAZEL ST	WORCESTER MA 01604

38-017-1A-01	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-02	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-03	ST ANTHONY REALTY LLC	0243 MAIN ST	HOPKINTON MA 01748
38-017-1A-04	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-05	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-06	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-07	ST ANTHONY REALTY LLC	0243 MAIN ST	HOPKINTON MA 01748
38-017-1A-08	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-09	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-10	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-11	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-12	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-13	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-14	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-15	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-16	ST ANTHONY REALTY LLC	0243 WEST MAIN ST	HOPKINTON MA 01748
38-017-1A-17	ST ANTHONY REALTY LLC	0234 WEST MAIN ST	HOPKINTON MA 01748
38-018-00004	KAUFMAN STEPHEN H	0120 ORTON STREET EXT	WORCESTER MA 01604
38-018-0001A	MONOPOLI CHRIS M + SANDRA L	0134 ORTON ST EXT	WORCESTER MA 01604
38-018-0001B	STEWART JAMES F + C FAITH	0021 WESTVIEW AVE	MILLBURY MA 01527
38-018-0002A	RGJ REALTY MANAGEMENT COMPANY INC	0186 BAILEY RD	HOLDEN MA 01520
38-018-0002B	TRIPP-TEBO CAROL A	0128 ORTON STREET EXT	WORCESTER MA 01604
38-018-0003A	BIANCO-GALINDEZ ANDRES E +	0126 ORTON ST EXT	WORCESTER MA 01604
38-018-0003B	MCDONALD ANN C	0124 ORTON ST EXTENSION	WORCESTER MA 01604
38-018-23-26	ELHOUSSAN LLC	0030 NORTHBORO ST	WORCESTER MA 01604
RR-ROW-0CSXT	NEW YORK CENTRAL LINES LLC	Tax Dept-C910 500 WATER ST	JACKSONVILLE FL 32202

This is to certify that the above is a list of abutters to Assessor's Map-Block-Lot(s) as cited above.

Certified by:

Signature

Samuel E. Konieczny

10/1/2021

Date

Edward M. Augustus, Jr.
CITY MANAGER



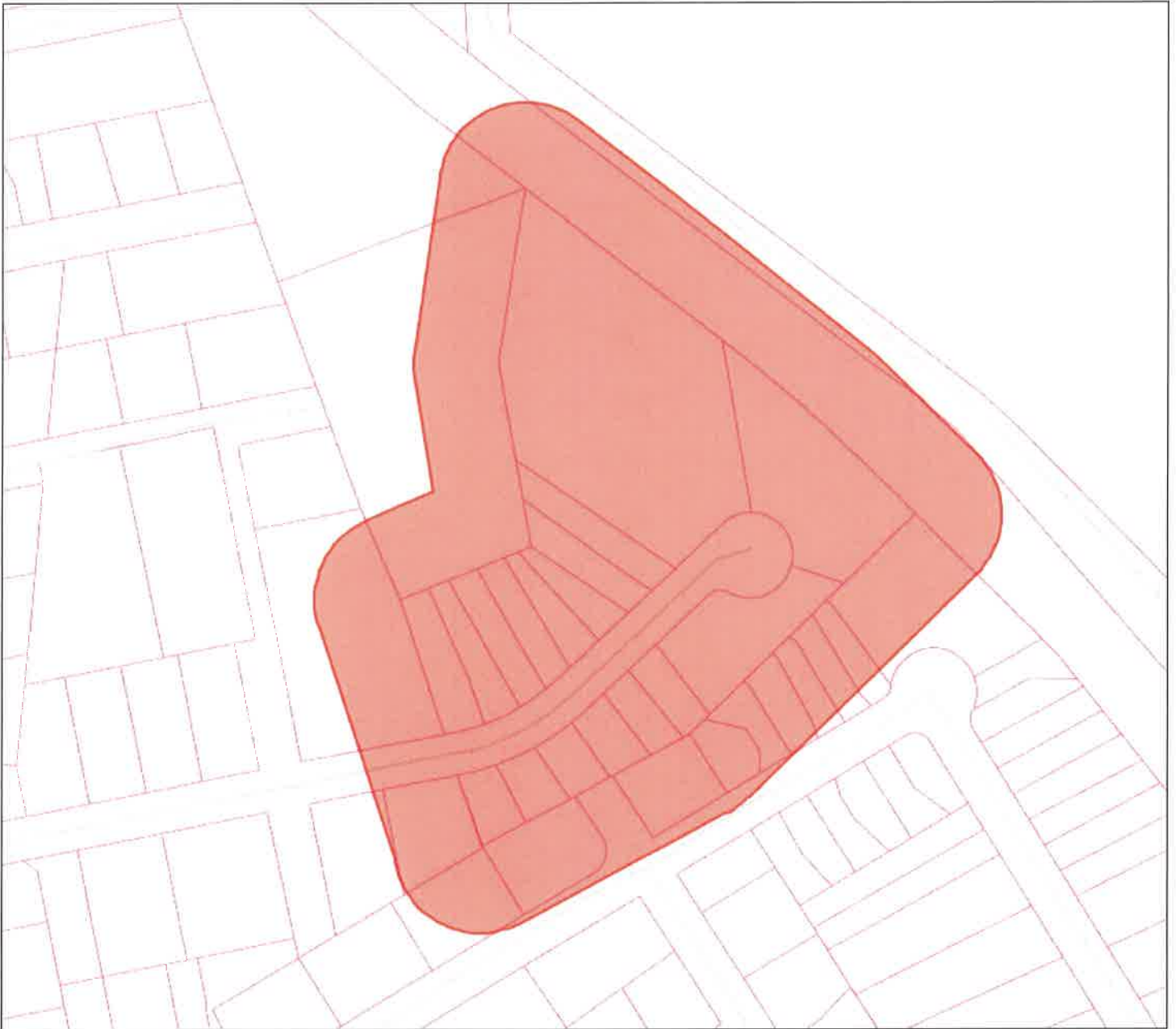
Timothy J. McGourthy
CHIEF FINANCIAL OFFICER

Samuel E. Konieczny
CITY ASSESSOR

CITY OF WORCESTER

ADMINISTRATION & FINANCE

Abutters Map

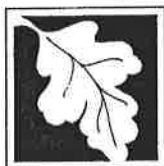


CC-2018-055



Bk: 59591 Pg: 166

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Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 349-1210
 MassDEP File #

eDEP Transaction #
 Worcester
 City/Town

A. General Information

Please note:
 this form has
 been modified
 with added
 space to
 accommodate
 the Registry
 of Deeds
 Requirements

1. From: City of Worcester
 Conservation Commission
2. This issuance is for
 (check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions
3. To: Applicant:

Important:
 When filling
 out forms on
 the
 computer,
 use only the
 tab key to
 move your
 cursor - do
 not use the
 return key.



a. First Name St. Anthony Realty, LLC b. Last Name _____
 c. Organization _____
 243 West Main Street
 d. Mailing Address _____
 Hopkinton MA 01748
 e. City/Town _____ f. State _____ g. Zip Code _____

4. Property Owner (if different from applicant):

a. First Name _____ b. Last Name _____
 c. Organization _____
 d. Mailing Address _____
 e. City/Town _____ f. State _____ g. Zip Code _____

5. Project Location:

35 Modoc Street Worcester
 a. Street Address _____ b. City/Town _____
 38-017 -0001A
 c. Assessors Map/Plat Number _____ d. Parcel/Lot Number _____
 Latitude and Longitude, if known: d. Latitude _____ e. Longitude _____

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Massachusetts Department of Environmental Protection
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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Worcester
 a. County 56351 & 38131 b. Certificate Number (if registered land) 21 & 225
 c. Book 6/28/2018 d. Page 9/10/2018
 7. Dates: a. Date Notice of Intent Filed 10/1/2018 c. Date of Issuance
 b. Date Public Hearing Closed
 8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
Anthony Circle Definitive Subdivision & Site Plan – Conservation Commission Filing Plans
 a. Plan Title
Joseph Graham, P.E. b. Prepared By Robert D. O'Neil, Jr., P.L.S.
Joseph Graham, P.E.
 c. Signed and Stamped by
8/30/2018, as revised by Attachment A d. Final Revision Date 1" = 40'
 e. Scale
35 Modoc Street - NOI Application Materials & Supplements f. Additional Plan or Document Title 6/28/2018
Stormwater Management and Hydraulic Calculations Report g. Date 5/14/2018

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
 Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- | | | |
|---|--|---|
| a. <input checked="" type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control |
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 60
a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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Provided by MassDEP:

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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]

"File Number 349-1210 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
 - (1) ☒ is subject to the Massachusetts Stormwater Standards
 - (2) ☐ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See Attachment A.

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The City of Worcester hereby finds (check one that applies):
 Conservation Commission

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:
City of Worcester Wetlands Protection Ordinance & Regulations COW GRO
 1. Municipal Ordinance or Bylaw Part 1. Ch. 6.
 2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:
City of Worcester Wetlands Protection Ordinance & Regulations COW GRO
 1. Municipal Ordinance or Bylaw Part 1. Ch. 6.
 2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See Attachment A.

ATTACHMENT A
Worcester Conservation Commission
Special Order of Conditions

City of Worcester Wetlands Protection Ordinance & City of Worcester Wetlands Protection Regulations
(City of Worcester Revised Ordinance Part I, Chapter 6)

And

Massachusetts General Laws, Chapter 131, §40 - Massachusetts Wetlands Protection Act

35 Modoc Street (CC-2018-055)

Project Description: To construct a ~500' extension of Modoc Street along with 17 residential dwelling units and conduct related grading, drainage, paving, utility installation, and site work.

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Notes:

- **Office of the Commission** is located at the Division of Planning and Regulatory Services (455 Main Street 4th floor, Worcester, MA), which can be contacted by e-mailing planning@worcesterma.gov or calling 508-799-1400 ext. 31440.
- **Asterisked (*) conditions** are standard conditions of approval for all projects.

I. Conditions to Meet Prior to and During Construction

21. Person Responsible for Compliance with the Order of Conditions* – A person shall be designated to be responsible to monitor compliance with the Order of Conditions. Their name and contact information (24/7) shall be provided to the Office of the Commission prior to start of any activity. This person shall conduct:
 - a) periodic inspections to assure the adequacy and continued effectiveness of erosion and sediment controls;
 - b) inspections of said controls following 0.5-inch or greater rain events, or after a heavy snow melt.
22. Contract* - This Order of Conditions and all approved plans shall be included as part of any contract and subcontract and shall be posted in a prominently displayed location in the supervisory office on site during all phases of construction.
23. Notification* - The applicant shall notify the Office of the Commission a minimum of 48 hours prior to the start of any activity.
24. Wetland or Bank Flagging – Prior to construction, wetland or bank flags shall be installed along the wetland or bank boundary, and shall remain in place during and after construction until approved for removal through the issuance of Certificate of Compliance for the entire project.

II. Conditions to Meet Before the Start of Any Activity

25. Revised Plans – That three (3) to-scale copies of revised plans shall be provided to the Office of the Commission, prior to commencement of work, showing the below changes. These plans shall be considered the final revised plans approved for the project -
 - a) Revise plans and details to indicate that 100% of roof runoff to be infiltrated.
 - b) Revise plans to add a swale along the toe of the northern slope to the west of the proposed detention basin in order to direct flow away from abutting properties and ensure stormwater is appropriately conveyed to the detention basin and does not cause off-site sedimentation.
 - c) Revise plans to demonstrate that all temporary stormwater management infrastructure (e.g. swales, etc.) direct water to temporary sediment basins.
26. Test Pit Data - Prior to commencement of *any additional* work, that two (2) copies of a test-pit data (associated with required stormwater infrastructure) shall be provided to the Office of the Commission to document compliance with the Massachusetts Stormwater Handbook requirements and associated Stormwater Standards (i.e. Standard 3) ensuring that appropriate seasonal high ground-water off-sets (i.e. minimum 2 foot separation) will be met. If groundwater is within 4 feet of the bottom of required infiltration structures, a mounding analysis shall be provided to demonstrate compliance with the Stormwater Standards.
27. Revised Stormwater Report - That two stamped (2) copies of a revised stormwater report, prepared by a professional engineer, shall be provided to the Office of the Commission prior to commencement of any work demonstrating compliance with the Massachusetts Stormwater Handbook requirements and *all* associated Stormwater Standards.
28. Stormwater Pollution Prevention Plan (SWPPP)* – That one (1) copy of the SWPPP submitted to the EPA in compliance with the NPDES permit requirements, if applicable, shall be provided to the Office of the Commission prior to commencement of work.
29. Performance Security -
 - a) Prior to the start of any activity on site the applicant shall secure the work associated with site stabilization (e.g. hydroseeding, etc.) in order to ensure faithful and satisfactory performance and prevent erosion. The amount of such security shall be determined by the vote of the

Commission upon the advice of the Commissioner of Public Works. The security shall be sufficient as to form in the opinion of the City Solicitor and shall be payable to the City of Worcester.

- b) *Violation/Failure to Comply with the Order.* Upon evidence of a violation of the Wetlands Protection Act and/or the Wetlands Protection Ordinance due to or arising from the work authorized by this Order, or upon the applicant's failure to adhere to the terms and conditions of this Order, then
 - i. *Threat of Harm.* If the Commission or its Agents determine such violation or failure does not create immediate harm but presents a threat of harm to the interests protected by the Wetlands Protection Act and/or the Wetlands Protection Ordinance, then the Commission shall send written notice of the violation or failure to the applicant and provide the applicant with a limited opportunity to cure such default. In the event the applicant fails to cure the default within the time frame specified by the Commission, then the Commission shall declare applicant in default and take all steps necessary to obtain the security, or a portion thereof, for the purpose of the City undertaking mitigation measures or taking other corrective actions.
 - ii. *Immediate Harm.* If the Commission or its Agents determine that such a violation or failure has caused immediate harm to the interests protected by the Wetlands Protection Act and/or the Wetlands Protection Ordinance, then the Agent shall forthwith notify the applicant of the violation or failure and demand that the applicant undertake immediate corrective measures. In the event the applicant fails to cure the default without delay, then the Commission shall declare the applicant in default and take all steps necessary to obtain the security, or a portion thereof, for the purpose of the City undertaking mitigation measures or taking other corrective action.

30. Construction Schedule - Submit a Construction Schedule consistent with Work Sequencing plans provided to the Office of the Commission prior to the start of any activities.

31. Tree Cutting* - Tree cutting is allowed following installation of erosion and sediment controls; otherwise, it may be allowed, prior to such installation, with the explicit permission of the Commission or its Agents.

32. Trees To Remain* - All trees to remain post construction shall be marked on site as shown on the approved plan so that the Commission or its representative can verify them before any clearing takes place.

33. Pre-Construction Conference* -

- a) The Conservation Commission or its Agents shall conduct a pre-construction conference prior to commencement of activities in each phase of the project. Phasing, if any, shall conform to the approved plans.
- b) The property owner / applicant and any person performing work that is subject to this Order are responsible for understanding and complying with the requirements of this Order, the Wetlands Protection Act, 310 CMR 10.00 and City of Worcester Wetlands Protection Ordinance and Regulations. Said persons shall acknowledge such in writing prior to commencement of activities.

34. Demarcation of Limit of Work - For areas of work within the 100 foot buffer to a bordering vegetated wetland/bank, prior to construction, the contractor shall stake out the 15 foot Worcester Wetlands Protection Ordinance no-disturb buffer or limit of work, whichever is further from the bordering vegetated wetlands, using an orange snow/construction fence to demarcate the no-disturbance zone during construction in order to prevent encroachments beyond the approved limit of work and prevent resource area impacts.

35. Inspections Prior to Site Preparation and Site Work* - Erosion and sediment controls shall be installed and verified, in compliance with final approved plans, by the Commission or its Agents prior to the commencement of any excavation, grubbing and/or stumping of vegetation, grading, construction, or other site preparation.

III. Permeant Stormwater Management System

36. Catch Basins* –

- a) The paved roadways and parking lots shall be bermed and shall be installed with standard City of Worcester catch basins.
- b) Prior to start of activity on site that causes soil erosion and sedimentation, catch basin filter traps shall be installed in the existing and new catch basins.
- c) Catch basins shall be cleaned as warranted during construction to keep them clear of sediment, and minimum twice a year thereafter.

37. Stormwater Management System Maintenance* – The stormwater management system shall be maintained in accordance with the approved design plans and Operation and Maintenance Plan on file with the Office of the Commission. The system shall be maintained in good hydraulic condition (e.g. any accumulated silt/sediment shall be removed; the system shall be kept free of any litter, refuse, or other extraneous matter, etc.). This condition shall extend in perpetuity beyond the issuance of the Certificate of Compliance.

IV. Conditions to Meet During Construction

38. Construction Timing, Phasing, and Lot Opening Restrictions:

- a) Temporary Stormwater infrastructure – Temporary stormwater infrastructure (e.g. sediment basins, swales, etc.) shall be installed prior to any other site work activities and shall be maintained in good-working order throughout construction. All temporary stormwater infrastructure shall convey stormwater to sediment basins.
- b) Permanent Stormwater Infrastructure – The permanent stormwater management system and all associated drainage piping, inverts, and outlets as proposed in the project plans shall be constructed and be operating as designed prior to any construction of any residential dwellings.
- c) Roadwork – Upon completion of filling and grading activities required to construct the right-of-way, all disturbed areas shall be stabilized.
 - i. Certification of adequate and complete stabilization shall be provided by a professional engineer and submitted to the Office of the Commission prior to the construction of any dwelling units. The purpose of this condition is to ensure both global and surficial stability of new grades in order to prevent slumping and erosion of newly imported soils which, due to the large volume of material required to be imported as fill for this project, have increased potential to erode if not properly compacted.
- d) Lot Opening Restrictions – Upon completion of the roadway work and related grading, due to the existing and proposed contours of the site, no more than the lots associated with the construction of three (3) structures shall be open at one time. "Open" means a lot with tree stumps removed and the soil disturbed and potentially erodible. An un-opened lot shall be one that is fully stabilized.

39. Infiltration Unit Inspection - Prior to back-filling, the applicant shall request and have conducted an inspection by the Commission or its Agents in order to verify the installation of the infiltration unit was conducted in a manner consistent with that provided on the approved plans.

40. Clean Fill - All fill used on the site shall be considered "clean" fill. Clean fill shall consist of a mineral soil substantially free from cinders, ashes, uncomposted organic materials, loam, wood, trash and other objectionable materials that may not be properly compacted. It shall have physical properties such that it can be readily compacted during backfilling in order to prevent unstable global or surficial conditions (e.g. future slumping or erosion). Clean fill shall not contribute to the pollution of ground or surface waters. No fill from contaminated sites, including but not limited to MassDEP Tier Classified Oil and/or Hazardous Material Sites (i.e. sites with reportable levels of contaminants as classified under the Massachusetts Contingency Plan), shall be used.
41. Material or "Fill" Removal and Potential Contamination - If during the removal of existing illegal dumped fill any materials are found to potentially contain contaminated materials, such material shall immediately be placed on and covered by polyurethane sheeting and shall be secured with heavy objects in order to prevent migration of contaminants. If such an instance occurs, the Commission shall receive copies of all correspondence transmitted to MassDEP relative to compliance with the Massachusetts Contingency Plan (MCP) upon receipt thereto.
42. Cement Truck Washouts - Cement trucks shall not be washed out in any resource area or 30' buffer zone, or directly into any drainage system component. Designated wash-out areas shall be out of the 100' buffer.
43. Limit of Work* - No removal, filling, dredging or altering of jurisdictional areas shall take place outside the approved work under this Order of Condition.
44. Work Sequencing* - Activities shall take place in accordance with all phasing and sequencing shown on the plan and/or provided in the application materials on file with the Office of the Commission and shall follow any lot opening restrictions otherwise provided herein.
45. Erosion Stabilization -
- a) Erosion and Sediment Controls* - All erosion and sediment controls shall be monitored, maintained, and adjusted for the duration of the project to prevent adverse impacts to jurisdictional areas. Additional erosion and sediment controls may be utilized on site as needed.
 - b) Off Site Impacts* - There shall be no off-site erosion, flooding, ponding, or flood-related damage from runoff caused by the project activities.
 - c) Unanticipated Drainage or Erosion* - The applicant shall control any unanticipated drainage and/or erosion conditions that may cause damage to jurisdictional areas and/or abutting or downstream properties. Said control measures shall be implemented immediately upon need. The Office of the Conservation Commission shall be notified if such conditions arise and of the measures utilized.
 - d) Soil Stabilization due to Delay in Work* - If there is an interruption of more than 10, but less than 60 days between completion of grading and revegetation, the applicant shall sow all disturbed areas with annual rye grass to prevent erosion. If soils are to be exposed for longer than 60 days, a temporary cover of rye or other grass should be established following US Soil Conservation Services procedures, as recently amended, to prevent erosion and sedimentation. Once final grading is complete, loaming and seeding of final cover should be completed promptly.
 - e) Grading of Slopes* -
 - i. >40% Slope - Slopes shall not exceed those specified in the plans approved by the Conservation Commission. Any slope equal to or greater than 40% (1 vertical to 2 1/2 horizontal) shall be stabilized with erosion control matting.
 - ii. <40% Slope - Final grades of vegetated areas shall not exceed a slope of 1 vertical to 2 1/2 horizontal (40%) and shall be stabilized to prevent erosion, particularly during the construction period.

- f) Stockpile Maintenance* - Any stockpiling of loose materials shall be properly stabilized to prevent erosion into and sedimentation of jurisdictional areas. Preventative controls such as haybales or erosion control matting shall be implemented to prevent such an occurrence.
- g) Site Stabilization Prior to Winter* - Prior to winter, exposed soils shall be stabilized (e.g. with demonstrated vegetative growth, impermeable barriers, erosion control blankets, etc.).

46. Invasive Insects* -

- a) Plantings – No trees to be planted shall be species susceptible to the Asian Longhorned Beetle or Emerald Ash Borer.
- b) Wood Removal – All tree, brush & wood removal shall adhere to the most recently amended requirements set forth by the Massachusetts Department of Conservation & Recreation for any project located in the Asian Longhorned Beetle Quarantine Zone.

47. Invasive Vegetation – The goal of this condition is to keep jurisdictional areas (bufferzone and resource areas) free of all invasive, likely invasive, and potentially invasive species as identified in *The Evaluation of Non-native Plant Species for Invasiveness in Massachusetts*, published by the MA Invasive Plant Advisory Group in April 1, 2005. This condition is intended to prevent the introduction and spread of non-native and invasive species which are known to result in resource area alterations and have impacts on wildlife habitat, etc.

- a) Material Introduction – All imported materials, such as compost, topsoil, etc. shall be inspected for evidence of invasive vegetation prior to use within jurisdictional areas at the site in order to prevent introduction and/or the spread of invasive vegetation. No materials with evidence of invasive vegetation shall be used in jurisdictional areas.
- b) On-going Management - A weeding program must be implemented within all jurisdictional areas that are disturbed as part of the project. The weeding program shall begin within one month of when final grades are reached and shall continue, at a minimum of, twice per growing season until a Certificate of Compliance is issued for the project.

48. Dust Control* - Provisions for dust control shall be provided during all construction and demolition activities. Such provisions shall be conducted in compliance with all City of Worcester Water Use Restrictions, if in effect, during such activities.

49. Dewatering* – If dewatering is required,

- a) Notice of such activities shall be given to the Office of the Commission within 24 hours of commencement;
- b) There shall be no discharge of untreated dewatered stormwater or groundwater to jurisdictional areas either by direct or indirect discharge to existing drainage systems;
- c) Any discharge to surface waters or drainage structures must be visibly free of sediment;
- d) To the maximum extent practicable, proposed dewatering activities should be located outside of the 100' buffer. If such activities must be located within the 100' buffer, they shall be monitored at all times when the pumps are running;
- e) Dewatering activities shall be confined within an area of secondary containment at all times.

50. Turbidity & Construction Monitoring Reports –

- a) Written construction reports, prepared by a competent individual specializing in erosion and sediment controls independent of the project contractor (e.g. professional engineer, professional wetland scientist, etc.), shall be submitted to the Commission during all earthwork and drainage construction.

- i. Any time changes to stormwater infrastructure (e.g. elimination of a basin, etc.) are conducted a certification from a professional engineer shall be provided documenting the adequacy of the modified infrastructure for managing stormwater.
- b) The *first report* shall be submitted to the Conservation Commission prior to commencement of construction activities and shall include base line measurements at the locations specified by the Conservation Commission or its Agents selected for turbidity monitoring during low flow conditions and during a rain event of 0.5 inches or greater.
- c) *Consequent reports* shall be submitted monthly or within 48 hours of any change to stormwater management infrastructure, whichever is more frequent, and shall include:
 - i. if changes to stormwater infrastructure (e.g. elimination of a basin, etc.) occur, a certification from a professional engineer shall be provided documenting the adequacy of the modified infrastructure for managing stormwater.
 - ii. turbidity measurements at the same locations as specified above, taken during each rain event exceeding 0.5", and comparisons to the base line measurements;
 - iii. an evaluation of all existing erosion and sedimentation controls, as well as all stormwater management system/s performance; and
 - iv. solutions employed and/or recommendations to fix areas found to be deficient, if any.

51. Spill Prevention* -

- a) No fuel, oil, or other pollutants shall be stored in any resource area or the buffer zone thereto, unless specified in this Order;
- b) No refueling shall take place within resource areas or 100-ft to a resource area;
- c) The applicant shall take all necessary precautions to prevent discharge or spillage of fuel, oil or other pollutants onto any part of the site;
- d) A spill kit shall be present on site at all times.

V. Conditions to Meet at Completion of Project

- 52. Site Stabilization* - All disturbed areas shall be properly stabilized with well-established perennial vegetation or other approved methods before the project is considered complete.
- 53. Erosion and Sediment Controls* - Erosion and sediment controls shall not be removed from the site until all disturbed areas have been stabilized with final vegetative cover and approval has been received from the Commission or its Agents to do so. The controls must then be removed within two weeks of receipt of that certification.
- 54. Certificate of Compliance* - Upon completion of the project, the applicant shall request in writing a Certificate of Compliance from the Commission. If the project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor, certification must include a written statement by such professional certifying the same.
 - a) If the project required compliance with the Massachusetts Stormwater Standards and/or work was conducted within Riverfront Area or Bordering Land Subject to Flooding, a certified as-built plan-of-land shall be provided showing final grades, resource areas, and all constructed improvements;
 - b) If permanent markers were required, the certified as-built plan-of-land shall depict their location.
- 55. Snow Storage - At no time shall snow be stored or stockpiled within 30' of a bordering vegetated wetland or bank or within a stormwater basin.

56. Deed Condition – Conditions numbered **37 & 55** shall extend beyond the Certificate of Compliance, in perpetuity, and shall be referred to in all future deeds to this property.

VI. General Conditions

57. Change in Ownership* - If a change in ownership takes place while this Order is still in effect, it is the responsibility of the new owner to notify the Commission of the change and to provide the name of the person responsible for compliance with the Order.
58. Conservation Agent's Power to Act* - With respect to all conditions, except _____, the Conservation Commission designates the Conservation Agent, as its Agent with full powers to act on its behalf in administering and enforcing this Order, unless the Agent determines approval from the Commission is appropriate.
59. Right to Inspect* - A member of the Conservation Commission or its Agent may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the purpose of evaluating compliance with this Order (and other applicable laws and regulations).
60. Changes to the Plan or Errors & Omissions* -
- (a) If any plan, calculation, or other data presented to the Office of the Commission is in error or have omissions, and are deemed significant by the Commissioners or their Agents, all work will stop at the discretion of the Commission, until the discrepancies have been rectified to the Commission's satisfaction.
 - (b) The applicant must notify the Commission in writing of any changes in the plans or implementation of the proposed activity where mandated by any local, state, or federal agencies having jurisdiction over the proposed activity. If, in the opinion of the Commission, any changes in the plans or implementation of the proposed activity so require, then the Commission may modify, amend or rescind this Order in a way consistent with:
 - M.G.L. Chapter 131, Section 40,
 - 310 CMR 10.00, *Wetlands Protection*,
 - the City of Worcester's *Wetlands Protection Ordinance*, and
 - the Commission's *Wetlands Protection Regulations*
- If any provisions of any conditions, or application thereof is held to be invalid, such invalidity shall not affect any other provisions of this Order. If the Commission deems that a proposed change is major or substantial, a new hearing may be required.

61. Liability* - The applicant shall indemnify and save harmless the Commonwealth, the City of Worcester, the Conservation Commission, and its Agents against all sites, claims or liabilities of every name and nature arising at any time out of or in consequence of the acts of the Commission or its Agents in the performance of the work covered by this Order and/or failure to comply with the terms and conditions of this Order whether by itself or its employees or subcontractors.

35 Modoc St

CC-2018-055



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

[Handwritten signatures]

[Handwritten signature]

☒ by hand delivery on

Date

10/1/18

☐ by certified mail, return receipt requested, on

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant